

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Inventor: LUNSFORD, DUANE A.
Application No.: 10/689172 Confirmation No.: 2716
Filed: October 20, 2003
Title: ADHESIVE ARTICLES INCLUDING NANOPARTICLE PRIMER AND
METHODS FOR PREPARING SAME

REPLY BRIEF TO SUPPLEMENTAL EXAMINER'S ANSWER
UNDER 37 CFR § 41.43(b)

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September 17, 2007	/K.J. Rostberg/
Date	Signed by: K.J. Rostberg

Dear Sir:

This is a reply brief filed in response to the Supplemental Examiner's Answer dated September 4, 2007.

This reply brief is believed to be timely submitted. It is believed that no fee is due; however, in the event a fee is required, please charge the fee to Deposit Account No. 13-3723.

STATUS OF CLAIMS

Claims 1-11 and 29-37 are pending.

Claims 12-28, and 38 were cancelled.

Claims 1-11 and 29-37 stand rejected and are the claims on appeal.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- I. Claims 1-11 and 29-37 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Lange et al. (US 4,816,333).
- II. Claims 6 and 32 stand rejected under 35 U.S.C. § 103(a) as purportedly being unpatentable over Lange et al., in view of Melancon et al. (US 2003/0152768 A1).

ARGUMENTS

The following remarks are intended to clarify Appellants' position in view of comments included in the Supplemental Examiner's Answer mailed September 4, 2007.

Teaching Away

In the Supplemental Answer, the Examiner asserted "it is the Examiner's firm conviction that the relied upon Lange et al does not teach away from the claimed invention." (Page 3.) However, Applicants have never argued that Lange et al. teach away from the invention. Rather, Applicants' argument can be simply summarized as follows. While Lange et al. may provide some suggestion to attempt the invention completed by the Applicants, EP '756 clearly and unambiguously teaches away from such an attempt.

The teaching of Lange et al., as accepted by the Examiner, consists of the following partial syllogism.

Minor premise: The antireflective coating of Lange et al. performed as a primer for the combination of the single adhesive of Scotch Brand Magic transparent tape and a single polyester substrate. (See, Examples 1 and 2. Note that the remaining examples do not mention adhesion.)

Conclusion: The anti-reflective coating of Lange et al. may be used as a primer to adhere any adhesive to any substrate.

The logical flaw in this argument is obvious when the missing major premise is set forth.

Major Premise: A coating that functions as a primer for the combination of a single adhesive and a single film will function as a primer for the combination of any adhesive and any film.

Clearly, this major premise suffers from the logical fallacy known as the hasty generalization. It is Applicants' position that one of ordinary skill in the art would recognize this flaw, and view Lange et al's argument with skepticism.

As set forth in Applicants' prior briefs, EP '756 provides a more logically and technically complete argument teaching away from Applicants' invention. As discussed by Applicants, this teaching away by EP '756, when weighed against the logically and technically insufficient argument present by Lange et al. clearly demonstrates that the Patent Office has failed to show that the present claims are rendered obvious by the prior art when both references are properly viewed as a whole and in combination. (See, e.g., In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). ("When prior art contains apparently conflicting references, the Board must weigh each reference for its power to suggest solutions to an artisan of ordinary skill."))

Murray Declaration

In the Supplemental Answer, the Examiner asserted "even if one agrees with appellant that the claimed invention excludes this composition [of the adhesive of Lange] (which the Examiner does not)" (Page 3.) Applicants note that the Murray Declaration is of record in this Appeal, and are not aware of any substantive basis the Examiner may have for challenging the contents of this declaration. Therefore, Applicants are unable to respond to the Examiner's assertion.

Respectfully submitted,

September 17, 2007

Date

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